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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,523	06/18/2001	Michael G. Coutts	7603.01	3099

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EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED: 01/09/2008

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief  
(37 CFR 41.37)**

Application No.

09/884,523

miu  
Applicant(s)

COUTTS ET AL.

Examiner

J. Bret Dennison

Art Unit

2143

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 09 October 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☒ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

see Attached.

The Appeal Brief relies on the allegedly entered amendments made in the Amendment After-Final, filed 06/06/2007. However, there was an inadvertant typo in the Advisory Action. The Advisory Action clearly states in section 3 that the proposed amendments will not be entered because they raise new issues that would require further consideration and/or search. While there was an inadvertant typo in the Advisory, the record clearly shows that the Examiner marked the claims NOT to be entered (i.e. "Do Not Enter").

The policy shown in MPEP 714.16(d) also applies to indicate whether or not an amendment is entered:

MPEP 714.16(d) states the following:

The amendment is PROMPTLY considered by the examiner who indicates whether or not its entry is recommended by writing "Enter — 312," "Do Not Enter" or "Enter In Part" thereon in red ink in the upper left corner. For IFW processing, the examiner should print the first page of the amendment and write either "Enter — 312" or "Do Not Enter" in the upper left corner, and have the page scanned into IFW with the appropriate document code.

As shown by the record, Examiner clearly provided the front page of the Amendment After Final with "Do Not Enter" along with Examiner's signature. Therefore, since the amendments in the After-Final were relied upon in the Appeal Brief, the status of amendments is incorrect and the Brief does not contain a correct copy of the appealed claims as an appendix thereto.



Patent Examiner

AU 2143